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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
10/691,815	10/23/2003	James R. Grabek	2981 6313		
7590 03/01/2006			EXAMINER		
Beck & Tysver, P.L.L.C.			JOHNSON III, HENRY M		
Suite 100 2900 Thomas Avenue S.			ART UNIT	PAPER NUMBER	
Minneapolis, MN 55416			3739		
			DATE MAILED: 03/01/2000	DATE MAILED: 03/01/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No		Applicant(s)					
Office Action Summary		10/691,815		GRABEK ET AL.					
		Examiner		Art Unit					
		Henry M. Johns		3739					
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply									
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).									
Status									
1) 又	Responsive to communication(s) filed on 19 J	anuary 2006.							
· —	This action is FINAL . 2b) This action is non-final.								
. —	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is								
-/-	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.								
Dispositi	on of Claims								
4)⊠ Claim(s) <u>1 and 2</u> is/are pending in the application.									
4a) Of the above claim(s) is/are withdrawn from consideration.									
5) Claim(s) is/are allowed.									
6)⊠ Claim(s) <u>1 and 2</u> is/are rejected.									
7)									
8)	Claim(s) are subject to restriction and/o	or election require	ement.		1 ~				
Applicati	on Papers				:				
9)🖾	The specification is objected to by the Examine	er.							
10)⊠ The drawing(s) filed on <u>23 October 2003</u> is/are: a) accepted or b)⊠ objected to by the Examiner.									
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).									
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).									
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.									
Priority ι	under 35 U.S.C. § 119								
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 									
2) Notice 3) Information	et(s) See of References Cited (PTO-892) See of Draftsperson's Patent Drawing Review (PTO-948) See of Draftsperson's Patement(s) (PTO-1449 or PTO/SB/08) Ser No(s)/Mail Date	5)	Interview Summary Paper No(s)/Mail Da Notice of Informal P Other:	te	O-152)				

Response to Arguments

Applicant's arguments filed 1/19/2006 have been fully considered but they are not persuasive. The Ideker et al. and Bush et al. references are interpreted as having all the claimed features. Further, the asymmetrical barb and articulated links are new matter, not in the original disclosure.

Drawings

This application lacks formal drawings. The informal drawings filed in this application are acceptable for examination purposes. When the application is allowed, applicant will be required to submit new formal drawings.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: While the specification describes the apparatus for use in the method, the method steps are not adequately disclosed.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 2 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The terms asymmetric distal tip barb and articulated links are new matter not

Art Unit: 3739

in the original disclosure. While the original claims included an asymmetrical electrode, no disclosure of an asymmetrical barb is present.

The term articulated links was introduced in the last amendment.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,683,447 to Bush et al. Bush et al. disclose a cardiac lead system with an asymmetrical barb at the distal end (Fig. 6) and electrodes around a flexible portion of an elongated body (Fig. 3, # 22). The flexible body is capable of being articulated. The engaging the epicardium with a temporary lead is intended use, having no impact on the device structure.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,484,057 to Ideker et al. in view of U.S. Patent 5,683,447 to Bush et al. Ideker et al. discloses methods for treating cardiac arrhythmias by implanting pulsing electrodes, the electrodes may be placed against or proximate the atrial epicardium in the pericardial space (Col. 9, lines 3-6). The position of the electrodes may be determined by sensing the activity pattern (this is

interpreted as determining pacing thresholds) at multiple locations to determine the position of the pulsing electrode (Claim 32). Ideker et al. disclose certain embodiments of the pacing systems of the present invention that include a plurality of discrete electrodes, a single elongated electrode, or one or more line electrodes (Col. 2, lines 55-58). It is implicit the electrodes would be attached to the epicardium to maintain the critical positioning. Ideker et al. teach the electrodes at the myocardium within the pericardial space implying the pericardial sac is intact (Col. 11. lines 26-27). Ideker et al. do not disclose an asymmetrical electrode. Bush et al. disclose a cardiac lead system with an asymmetrical barb at the distal end (Fig. 6) and electrodes around a flexible portion of an elongated body (Fig. 3, # 22). The flexible body is as capable of being articulated. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the asymmetrical barbed pacing electrode as taught by Bush et al. in the method of Ideker et al. as such electrodes are well known in the art as stated by the applicant in the background of the specification. It is proper to take into consideration not only the teachings of the prior art, but also the level of ordinary skill in the art. In re Luck, 476 F.2d 650, 177 USPQ 523 (CCPA 1973). Specifically, those of ordinary skill in the art are presumed to have some knowledge of the art apart from what is expressly disclosed in the references. In re Jacoby, 309 F.2d 513, 135 USPQ 317 (CCPA 1962).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

Application/Control Number: 10/691,815 Page 5

Art Unit: 3739

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry M. Johnson, III whose telephone number is (571) 272-4768. The examiner can normally be reached on Monday through Friday from 6:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Henry M. Johnson, III

Primary Examiner

Art Unit 3739